

Remarks

Reconsideration and allowance of this application, as amended, are respectfully requested.

The written description portion of the specification has been editorially amended for improved clarity. No claim has been amended. Previously presented claims 1, 2, and 4-22 remain pending herein, with claims 12-15 withdrawn from consideration as directed to a non-elected invention. Claims 1, 18, and 21 are independent.

The rejections are respectfully submitted to be obviated in view of the remarks presented herein.

Applicant again acknowledges with gratitude the allowance of claim 21 and the indication of allowable subject matter in claims 5, 9, and 16. However, for at least the reasons presented below, Applicant again submits that all of the claims presently under consideration are allowable.

35 U.S.C. § 103(a) - Abel and Laffay

Claims 1, 2, 6, 7, 10, 11, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,265,760 to Abel et al. (hereinafter "Abel") in view of FR 2,766,797 to Laffay et al. ("Laffay"). The examiner acknowledges in pertinent part that Abel "does not specifically teach that the filter means of the inner sheet is disposed exclusively at the distal end of the bag (i.e. opposite side from the inlet)" (Office Action page 3, numbered paragraph 1). Nonetheless, the examiner

asserts that "it has been held that the omission of an element and its function is obvious when the function of the element is not desired." The examiner concludes that "it would have been obvious to reconfigure the inner sheet of Abel such that the filter means is only disposed at the distal end of the chamber if transfer of fluid from the first chamber to the second chamber was only desired at the distal end of the device."

The rejection of claims 1, 2, 6, 7, 10, 11, and 22 under § 103(a) based on Abel and Laffay is respectfully traversed. For at least the following reasons, the combined disclosures of Abel and Laffay would not have rendered obvious Applicant's claimed invention.

By way of review, claim 1 reads as follows:

1. A bicompartiment bag adapted to prepare a liquid solution, comprising an assembly of two strong flexible outer sheets and a flexible inner sheet that divides an interior of the bag into a first chamber that is at least partially filled with a powdered solute and a second chamber and that has a screen portion located only at a distal end thereof at a bottom portion of the bag, the two outer sheets and the inner sheet being watertightly joined at a periphery thereof, one of the two outer sheets having a first aperture located therein and an access bushing disposed in the first aperture, the inner sheet having a second aperture located therein that is in communication with the bushing and the inner sheet being affixed at a periphery of the second aperture to a plane of a bushing end that projects into the bag, the bushing having a first opening therein that provides communication between a solvent inlet line and the first chamber, and the bushing having a second opening therein that provides communication between the second chamber and a solution discharge line.

First, the combined disclosures of Abel and Laffay simply do not teach all of Applicant's claim features. More specifically, the asserted Abel/Laffay combination fails to teach, *inter alia*, Applicant's claimed "flexible inner sheet *that divides an interior of the bag* into a first chamber that is at least partially filled with a powdered solute and a second chamber *and that has a screen portion located only at a distal end thereof at a bottom portion of the bag.*"

As indicated above in the introductory remarks, the examiner acknowledges that Abel "does not specifically teach that the filter means of the inner sheet is disposed exclusively at the distal end of the bag (i.e. opposite side from the inlet)." But, the difference between Abel's device and Applicant's claimed bicompartiment bag is much more than that which the examiner concedes. Not only does Abel "*not specifically teach that the filter means of the inner sheet is disposed exclusively at the distal end of the bag,*" but instead in fact teaches that the "absolute filter 105" *extends across the entire width* of flexible bag 101. See Abel's Figure 5, which clearly illustrates the aforementioned point. That is, Abel discloses that "[t]he interior of the container 101 *is divided* into an inlet compartment 106 and an outlet compartment 107 *by an absolute filter 105*" (Abel column 3, lines 36-38) (emphasis added). Abel's filter 105 is continuous, and extends across the entire width of the bag 101.

If, with Applicant's claimed bicompartement bag, where both the solvent inlet and the solution outlet are in close proximity to each other, one were to employ Abel's filter, there is the possibility that solvent entering the inlet would simply "shortcut" the path to the outlet. To avoid the aforementioned shortcut is precisely why Applicant's claimed invention includes the feature of the special inner filter layer 7 having the screen portion *only at the distal end*, i.e., opposite from the adjacent inlet and outlet.

Second, Applicant respectfully submits that the examiner's stated rationale for disregarding the above-described deficiency of Abel represents an *impermissible* hindsight reconstruction. Applicant can discover no disclosure in Abel or elsewhere to support the examiner's contention that "it would have been obvious to reconfigure the inner sheet of Abel such that the filter means is only disposed at the distal end of the chamber if transfer of fluid from the first chamber to the second chamber was only desired at the distal end of the device." In Abel's device, the absolute filter 105 only serves the function of filtering the fluid moving from inlet compartment 106 to outlet compartment 107. In fact, with regard to movement of the fluid and filtering, Abel simply teaches that "the water diluent is introduced through the inlet means to effect dilution of the chemicals in inlet compartment 106, with the diluent contacting the adsorbent and *flowing through the absolute filter 105 into the outlet compartment*

107 for delivering the chemicals in diluted form for in vivo use through outlet means 103." Abel is completely silent, however, about anything related to *the stability of the concentration of the dissolved solid* in the fluid exiting the bag outlet.

However, an important aspect of Applicant's invention is in fact the stability of the concentration of the dissolved solid in the fluid exiting the outlet. See, for example, the objects of this invention described in the very first two paragraphs of the instant specification. For example, Applicant discloses that one object is avoid using the conventional tubing that is employed "to preclude the dissolving powder from migrating out of the device before it is dissolved" (specification page 1, lines 15-16). To avoid the shortcut that could result from using the filter of Abel, and consequently, the associated migration of undissolved powder from the bag, is precisely why Applicant's claimed invention includes the feature of the special inner filter layer 7 having the screen portion *only at the distal end*, i.e., at the end of the bag opposite from the inlet and outlet.

Furthermore, regardless of what Laffay may disclose with regard to a "bushing 8," the disclosure of Laffay does not rectify any of the above-described structural deficiencies of Abel.

Finally, there is simply no teaching in either Abel or Laffay that would have led one to select the references and combine them in a way that would produce the invention defined by any of Applicant's pending claims. Laffay discloses a package that is

"applicable to packaging acid substances for a dialysis" (English-language abstract). There is simply no teaching in either of the references that a person having ordinary skill in the art would try to improve the bag of Laffay by using the bag of Abel in order to avoid using the outlet tubing of Laffay, yet while still employing Laffay's bushing.

Therefore, the combined disclosures of Abel and Laffay would not have rendered obvious the invention defined by claim 1. Claims 2, 6, 7, 10, 11, and 22 are allowable because they depend from claim 1, and for the subject matter recited therein.

35 U.S.C. § 103(a)

Claims 4 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abel in view of Laffay, and further in view of U.S. Patent No. 5,616,305 to Mathieu. Claims 8 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abel in view of Laffay, and further in view of U.S. Patent Application Pub. No. 2002/0030002 of Verkaart et al. ("Verkaart").

Each of the aforementioned rejections under § 103(a) is also respectfully traversed. Claims 4 and 10, and claims 8 and 17, all depend, either directly or indirectly, from claim 1. Claim 1 is allowable for at least the reasons explained above. The disclosures of Mathieu and Verkaart add nothing that would rectify any of the above-described deficiencies of the asserted Abel/Laffay combination. More specifically, the disclosures of Mathieu and

Verkaart are irrelevant for the reasons articulated in Applicant's replies filed October 26, 2007, December 7, 2007, June 24, 2008, and December 16, 2008. Accordingly, claims 4, 8, 10, and 17 are allowable because they depend from claim 1, and for the subject matter recited therein.

Independent claim 18 is similarly allowable. By way of review, claim 18 reads as follows:

18. A bicompartiment bag adapted to prepare a liquid solution, comprising:

a first flexible outer sheet having a first aperture therein, a second flexible outer sheet, and a first flexible inner sheet having a second aperture therein, the first inner sheet dividing an interior of the bag into a first chamber that is at least partially filled with a powdered solute and a second chamber and having a perforated portion located only at a distal end thereof at a bottom portion of the bag, the outer sheets and the first inner sheet being watertightly joined at a periphery thereof;

a bushing disposed in the first aperture and attached to the first outer sheet at a periphery of the bushing and attached to the first inner sheet at a portion thereof adjacent the second aperture, the bushing having a first flow channel therein that provides fluid communication between a solvent inlet line and the first chamber, and the bushing having a second flow channel therein that provides fluid communication between the second chamber and a solution discharge line; and

a cover inserted in the bushing to provide an air-tight bag connection, the cover having an initially sealed valve therein that is openable so as to provide the fluid communication through the first flow channel.

Claim 18 is allowable for at least reasons similar to those explained above with respect to claim 1. Verkaart's disclosure of a "tube sealing means" adds nothing that would rectify any of the above-described deficiencies of the asserted

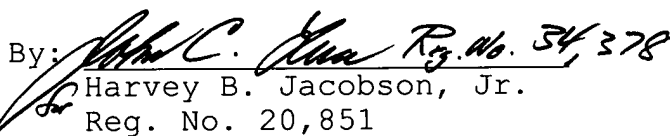
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Abel/Laffay combination. Claims 19 and 20 are allowable because they depend from claim 18, and for the subject matter recited therein.

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that another interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

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